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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED

07 OCT 31 AM 10:24

UNITED STATES OF AMERICA,

Plaintiff,

V.

Jose Epifanio GARCIA,

Defendant

Magistrate Docket No.

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

COMPLAINT FOR VIOLATION OF: DEPUTY

Title 8, U.S.C., Section 1326

Deported Alien Found in the

United States

The undersigned complainant, being duly sworn, states:

On or about **October 30, 2007** within the Southern District of California, defendant, **Jose Epifanio GARCIA**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.


SIGNATURE OF

SIGNATURE OF COMPLAINANT

James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, ~~THIS 31th DAY OF October, 2007~~

Louisa S. Porter

UNITED STATES MAGISTRATE JUDGE

MIP

CONTINUATION OF COMPLAINT:**Jose Epifanio GARCIA****PROBABLE CAUSE STATEMENT**

On October 30, 2007 at approximately 7:00 a.m. Border Patrol Agent J. Viau, was performing patrol duties in the Imperial Beach Border Patrol area of operations. Agent Viau was advised by Border Patrol Dispatch that a citizen had just reported five suspected undocumented aliens, carrying backpacks, running northbound on the beach, past the Imperial Beach Pier. This area is approximately three miles north of the United States/Mexico International boundary fence and five miles west of the San Ysidro, California, Port of Entry. Agent Viau responded to the area and encountered five individuals. When Agent Viau approached the individuals and identified himself as a United States Border Patrol Agent all five individuals started to run away from him. One of the individuals ran northbound up the beach, one of the individuals ran into the water and three of the individuals ran eastbound. Agent Viau chased the three individuals eastbound and caught up to them near a chain link fence on the east side of the beach. Agent Viau ordered the individuals to stop. The individuals became compliant and Agent Viau questioned all three individuals as to their citizenship and nationality. All of the individuals, including one later identified as the defendant **Jose Epifanio GARCIA**, admitted that they were all citizens and nationals of Mexico, illegally present in the United States without any immigration documents that would allow them to enter or remain here legally. The defendant and the others were placed under arrest and subsequently transported to the Imperial Beach Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico on February 17, 2004 through Calexico, California**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.